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Attorney's Docket No. 4164-158

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: John F. Acres

Serial No.: 09/694,065

Group No.: 3714

Filed: October 19, 2000

Examiner: Coburn, Corbett B

For: **METHOD OF IMPLEMENTING CASHLESS PLAY OF GAMING
DEVICES INTERCONNECTED BY A COMPUTER NETWORK**

Confirmation No. 8782

TRANSMITTAL LETTER

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Enclosed for filing in the above-referenced application are the following:

- Appellant's Amended Brief Under 37 CFR §1.192 (in triplicate)
- Any deficiency or overpayment should be charged or credited to deposit account number 13-1703. A duplicate copy of this sheet is enclosed.



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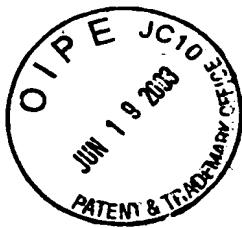
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**APPELLANT'S AMENDED BRIEF
UNDER 37 CFR §1.192**

This amended Appeal Brief is in response to a Notification of Non-Compliance with 37 C.F.R. 1.192(c)(7).

Appeal is taken from the Examiner's Office Action mailed June 27, 2002 finally rejecting claims 1-35 and 37-61 in this application.

This Appeal Brief is in furtherance of the Notice of Appeal mailed in this case on October 28, 2002.

The fees required under §1.17(c) and any required petition for extension of time for filing this Brief and fees therefore are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This Brief is transmitted in triplicate.

This Brief contains these items under the following headings, and in the order set forth below.

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I. REAL PARTY IN INTEREST **37 CFR §1.192(c) (1)**

Acres Gaming, Inc. is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES **37 CFR §1.192(c) (2)**

None.

III. STATUS OF CLAIMS **37 CFR §1.192(c) (3)**

Status of All the Claims:

1. Claims presented: 1-35 and 37-61
2. Claims withdrawn from consideration but not cancelled: NONE
3. Claims canceled: 36

4. Claims pending: 1-35 and 37-61

of which:

- a. Claims allowed: NONE
- b. Claims rejected: 1-35 and 37-61

All the rejected claims, namely claims 1-35 and 37-61, are being appealed. The appealed claims are eligible for appeal, having been finally rejected.

IV. STATUS OF AMENDMENTS
37 CFR §1.192(c) (4)

There have been no amendments.

V. SUMMARY OF THE INVENTION
37 CFR §1.192(e) (5)

The present invention comprises a method for implementing cashless play of gaming devices interconnected by a computer network. Gaming devices are interconnected by a network to a host computer. Specification, page 2, line 1. A player account accessible by a host computer is created. Specification, page 2, lines 1-2. Access to the account is provided responsive to a first command initiated by a player at one of the gaming devices. Specification, page 2, lines 2-3. Credit is then transferred from the account to the gaming device, which the player then plays. Specification, page 2, lines 3-4. After play, the player cashes out from the gaming device using a second command at the gaming device. Specification, page 2, lines 4-5.

VI. ISSUES ON APPEAL
37 CFR §1.192(c) (6)

- A. The Examiner rejected claim 59 under 35 U.S.C. 112, first paragraph, as containing subject matter not described in the specification in a way to enable one skilled in the art to which it pertains, or is most nearly connected, to make and/or use the invention.

- B. The Examiner rejected claims 33, 40, & 43-49 as anticipated by U.S. Patent No. 5,470,079 to LeStrange et al. (“LeStrange”) under 35 U.S.C §102(b).
- C. The Examiner rejected claims 1-10 & 12 as obvious over U.S. Patent No. 5,967,896 to Jorasch et al. (“Jorasch”) in view of U.S. Patent No. 4,880,237 to Kishishita (“Kishishita”) under 35 U.S.C. § 103(a).
- D. The Examiner rejected claims 11 & 13-15 as obvious over Jorasch and Kishishita and in view of LeStrange under 35 U.S.C. § 103(a).
- E. The Examiner rejected claim 16 as obvious over Jorasch, Kishishita and LeStrange as applied to claim 13 in view of U.S. Patent No. 6,227,972 to Walker et al. (“Walker”) under 35 U.S.C. §103(a).
- F. The Examiner rejected claims 17-30, 32, 55 & 57-61 as obvious over Jorasch in view of LeStrange under 35 U.S.C. § 103(a).
- G. Claim 31 is rejected as obvious over Jorasch and LeStrange as applied to claim 17, in view of Walker under 35 U.S.C. § 103(a).
- H. Claims 34, 35 & 37 are rejected as obvious over LeStrange as discussed in connection with claims 33 and 36 under 35 U.S.C. §103(a).
- I. Claims 38, 39, 41 and 42 are rejected as obvious over LeStrange as applied to claim 33 in view of Jorasch under 35 U.S.C. §103(a).
- J. Claim 50 is rejected as obvious over LeStrange as applied to claim 33 in view of Walker under 35 U.S.C. § 103(a).
- K. Claim 51 is rejected as obvious over Jorasch and Kishishita as applied to claim 9 above, and further in view of Walker under 35 U.S.C. §103(a).
- L. Claims 52-54 are rejected as obvious over Jorasch and LeStrange as applied to claim 17, 20, or 38 above, and further in view of Kishishita under 35 U.S.C. §103(a).

VII. GROUPING OF CLAIMS
37 CFR §1.192(c) (7)

Group I contains claims 33 and 38-40. The claims of the group stand or fall together.

Group II contains claims 43-49. The claims of the group do not stand or fall together. Each claim and each embodiment thereof is independently patentable.

Group III contains claims 1-6. The claims of the group stand or fall together.

Group IV contains claims 7-10 and 12. The claims of the group do not stand or fall together. Each claim and each embodiment thereof is independently patentable.

Group V contains claims 11 and 13-15. The claims of the group do not stand or fall together. Each claim and each embodiment thereof is independently patentable.

Group VI contains claims 16, 31, 50 and 51. The claims of the group do not stand or fall together. Each claim and each embodiment thereof is independently patentable.

Group VII contains claims 17, 20-23, 30, 32, 55 and 59-61. The claims of the group stand or fall together. Each claim and each embodiment thereof is independently patentable.

Group VIII contains claims 18, 19, and 24-29. The claims of the group do not stand or fall together. Each claim and each embodiment thereof is independently patentable.

Group IX contains claims 34, 35, and 37. The claims of the group do not stand or fall together. Each claim and each embodiment thereof is independently patentable.

Group X contains claims 41 and 42. The claims of the group do not stand or fall together. Each claim and each embodiment thereof is independently patentable.

Group XI contains claims 52-54. The claims of the group do not stand or fall together. Each claim and each embodiment thereof is independently patentable.

VIII. ARGUMENT 37 CFR §1.192(c) (8)

The Examiner initially rejected Appellant's claims 1-8, 12, 18-21, and 23 as anticipated by Jorasch; claims 33, 40, and 43-49 as anticipated by LeStrange; claims 9-10 as obvious over Jorasch; claims 11, 13-15, 17, 22, 24-30, and 32 as obvious over Jorasch in view of LeStrange; claim 16 as obvious over Jorasch in view of Walker; claim 31 as obvious over Jorasch and LeStrange in view of Walker; claims 34, 35, and 37 as obvious over LeStrange; claims 38, 39, 41, and 42 as obvious over LeStrange in view of Jorasch; and claim 31 as obvious over LeStrange in view of Walker. Appellant responded by amending claims, adding new claims and making arguments to overcome the rejections. The Examiner then issued the final rejection.

Issue A: Claim 59 is described in such a way as to enable one skilled in the art to make the invention.

Claim 59 was rejected under 35 U.S.C. 112, first paragraph, as containing subject matter not described in the specification in such a way as to enable one skilled in the art to make or use the invention. In rejecting a claim based upon 35 U.S.C. §112, first paragraph, the Examiner has the burden to establish a “reasonable basis to question the enablement provided for the claimed invention.” MPEP §2164.04, *citing In re Wright*, 999 F.2d 1557, 1562, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993). The Examiner must do more than state that a claim is not enabled, it is “incumbent on the Patent Office, whenever a rejection on this basis is made, to explain *why* it doubts the truth or accuracy of any statement in a supporting disclosure and to back up assertions of its own with acceptable evidence or reasoning which

is inconsistent with the contested statement.” *In re Marzocchi*, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971), cited in MPEP §2164.04.

According to the Examiner, claim 59, “wherein the amount of said predetermined credit is not a function of the balance in the player account” is not enabled because if the predetermined amount were set at \$50, but the player account had only \$10, there is no suggestion that the transfer would be made. June 27, 2002, Office Action (“Office Action”), page 2. The Examiner states that this makes the transferred amount a function of the balance.

Appellant’s disclosure includes the following, beginning at page 10, line 26 and continuing to page 11, line 2:

After the player record is stored at MCI 50, the player uses keypad 80 to select cashless play. An algorithm that is part of the software stored in read only memory (ROM) (not shown) in MCI 50 then calculates an amount to transfer from the account in MCI 50 to credit meter 70 on EGM 12. **The amount transferred is a predetermined amount calculated by the algorithm; it is not selected by the player using keypad 80.** The algorithm checks flags associated with the account for minimum and maximum transfer limits that are imposed at one of terminals 90, 92 when the account is opened. **These minimums and maximums are set regardless of the account balance.** The algorithm, of course, also examines the account balance and does not permit a transfer in excess of the account balance.

[Emphasis added]. This section provides support for the claim that the predetermined credit is not a function of the balance in the player account. The Examiner’s analogy addresses whether or not a transfer occurs, not how the amount of the transfer is determined. As such, the Examiner’s rejection fails to address what is claimed in 59. Claim 59 is supported by the specification and is enabled.

Issue B: Claims 33, 36, 40, & 43-49 are not anticipated by LeStrange because LeStrange fails to disclose each and every element of Appellant’s invention.

It is well settled that a rejection based on anticipation requires the disclosure, in a single reference, of every element the Appellant claims as his invention. *Ex parte Levy*, 17 USPQ2d 1461, 1462 (Bd. Pat. App. & Int’f 1990). In making such a rejection, it is the examiner’s burden to identify

where each element of the Appellant's invention is disclosed in the prior art. *See id.* The Examiner has failed to meet this burden with respect to Appellant's invention.

Claims 33, 40 & 43-49 are rejected under 35 U.S.C. 102(b) as anticipated by LeStrange, et al (U.S. Patent No. 5,470,079) ("LeStrange"). Claim 36 has been cancelled.

As to claim 33, the Examiner states that LeStrange discloses a method of operating gaming devices interconnected by a network to a host computer, including a player account accessible by the host computer responsive to a player initiated command. *See Office Action*, page 2. The Examiner fails to address the limitation in claim 33 "providing access to the account responsive to a command initiated by a player **at one of the gaming devices.**"

[Emphasis added]. LeStrange does not disclose this feature.

In the October 11, 2002, Advisory Action ("Advisory Action"), the Examiner states that Figures 4(a)-(b) and 5(a)-(b) of LeStrange show access to the account responsive to commands issued by the player at one of the gaming devices. Figures 4 and 5 are flow charts showing the operation of the accounting system, rather than the player account as suggested by the Examiner. LeStrange, column 8, lines 20-21, and column 10, lines 33-34. Moreover, steps 214-218 show changes to the game credit meter rather than access to the player's account.

The Examiner also argues that a first and second meter reading in association with transferring credit between the account and the gaming device is disclosed by LeStrange because LeStrange discloses maintaining an audit trail. *See Office Action*, page 3. Assuming *arguendo* that an audit trail were disclosed, there is nothing to suggest that such an audit trail need be comprised of a first and second meter reading in association with transferring credit between the account and the gaming device responsive to a command initiated by a player at one of the gaming devices. Indeed, the section quoted by the Examiner demonstrates that LeStrange teaches away from Appellant's invention.

Specifically, at column 7, lines 2-4, LeStrange says that whenever the system updates meter values, the event that caused the changes is also recorded. The type of event that causes the meter value to be updated is described in column 6, lines 60-66:

Possible events include: coin or other money input by the player, wagers placed by the player, game wins issued to the player, a “collect” event issued by the player signifying the player’s desire to withdraw available game credit from the machine and a game change event signifying that a player has requested a change of game at a video lottery machine.

Nowhere does LeStrange refer to reading a meter a first time and reading the meter a second time. In sharp contrast, the stated events in LeStrange are all actions undertaken by the player, and not actions undertaken by the system, such as the meter readings, to ensure the integrity of the system. In the Advisory Action the Examiner states that audit trail information is recorded whenever the system updates meter values. The portion quoted above makes explicit that meter values are updated based on actions undertaken by the player. The Examiner has not identified any portion of LeStrange that suggests that actions, other than those by a player, will trigger meter value updates. As such, LeStrange teaches away from Appellant’s invention.

Claims 40 and 43-49 are allowable because they depend from an allowable claim. Additionally, claim 43 is not anticipated by LeStrange because LeStrange fails to disclose each element of the claim. Claim 43 includes calculating the difference in the meter readings and comparing the calculated difference with the amount transferred. LeStrange, Figure 6 (404), cited by the Examiner in support of the rejection, only discloses computing a change in meter data by subtracting the previous reading from the current meter in response to the player’s bet. Figure 6 at most calculates a difference. There is no comparison of the calculated difference with the amount transferred as Appellant claims.

Claim 44, which depends from claim 43, claims deducting the calculated difference from the account balance. The Examiner states that in any accounting system the calculated

difference between the initial meter reading and the post-transfer reading is equal to the amount transferred and that this amount is then deducted from the player's account balance.

See Office Action, page 3. Such a statement is without support and overlooks an essential feature of Appellant's invention. Ideally the calculated difference between the initial meter reading and the post-transfer reading will be equal to the amount of the transfer request.

Assuming that the two amounts are not identical, the amount actually transferred, as opposed to the amount requested, will be deducted from the player account. Such a failsafe is not standard and is not disclosed in LeStrange.

Claim 45 claims storing the amount transferred and the calculated difference at a location on the network remote from the player account. The Examiner argues that LeStrange stores accounting and customer data in one database and data reflecting changes in the credit meters in another database. *See Office Action, page 3.* This is not supported by the specification. LeStrange says that accounting data, including meter values, are sent to the host computer. LeStrange, column 7, lines 4-6. According to LeStrange, the host computer "archives accounting data and customer data in a database." [Emphasis added]. LeStrange, column 5, lines 33-35. Therefore, accounting data (including meter data) and customer data (player data) are stored in the same place, the host computer, in the same database. In no way does LeStrange disclose the features of claim 45.

The Examiner, in claim 46, cites LeStrange at column 10, line 38, as disclosing the transfer of credit between the account and the gaming device responsive to a player-initiated command. *See Office Action, page 4.* Line 38 discloses checking to make sure game credit has been purchased rather than transferring credit between the account and the gaming device responsive to a player-initiated command at the gaming device. Again, LeStrange fails to anticipate transferring credit between the account and the gaming device responsive to a player-initiated command, and as such claim 46 is patentable over the applied art.

As to claim 47, the Examiner states that LeStrange discloses transferring a predetermined amount to comply with state law specifying the amount that can be used in gambling. *See Office Action, page 4.* LeStrange actually discloses that tickets or cards can be issued by casinos as a means for limiting the amount a player can gamble in states where the maximum amount is specified by law. LeStrange, column 8, lines 10-13. Appellant claims that the amount transferred is predetermined—these are difference concepts. There is no suggestion that Appellant’s predetermined amount is a maximum amount a player can gamble.

In dependent claim 48, the Examiner states that the amount transferred would inherently be a function of the player’s account balance because a player could not transfer more than the balance of the account to the gaming device. *See Office Action, page 4.* This is an overbroad statement by the Examiner and fails to consider malfunction of the gaming machine and enticements offered by the casino. Thus, rather than being inherent, claim 48 recites an advantage of the invention.

In rejecting claim 49, the Examiner states that LeStrange discloses classifying players and providing incentives to gamble at a particular casino. *See Office Action, page 4.* The cited portion however addresses classifying payment types rather than players. This is not what Appellant claims.

LeStrange fails to disclose many significant features of Appellant’s invention. As such, LeStrange does not anticipate Appellant’s claims and cannot be used to reject the claims. The Examiner has failed to meet the burden established for rejecting claims under 102(b).

Issue C: Claims 1-10 & 12 are patentable over Jorasch in view of Kishishita because neither of these references alone or in combination yields Appellant’s invention.

A proper obviousness rejection must be based on basic tenets of patent law.

According to the Manual of Patent Examining Procedure (“MPEP”) these tenets are: 1) the invention must be considered as a whole; 2) the references must be considered as a whole and must suggest the desirability and obviousness of the combination; 3) the references must be viewed without hindsight; and 4) there must be a reasonable expectation of success. MPEP §2141. The incentive to combine references must also be readily apparent. If the incentive to combine is not readily apparent, the Examiner must explain why the combination of teachings is proper. *See Ex parte Skinner*, 2 USPQ2d 1788, 1790 (B. App. & Int’f 1986).

The Examiner has failed to meet this burden.

Claims 1-10 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorasch, et. al. (U.S. Patent No. 5,967,896) (“Jorasch”) in view of Kishishita (U.S. Patent No. 4,880,237) (“Kishishita”).

As to claim 1, the Examiner says that Jorasch discloses gaming machines interconnected by a network to a host computer, a player account accessible by the host computer, accessing the account responsive to a first command issued by the player, transferring credits from the account to the gaming device, and cashing out the player responsive to a second player command at the gaming device. *See* Office Action, page 5. According to the Examiner, although Jorasch does not teach anonymous accounts, Kishishita does.

The Examiner cites Kishishita, column 3, lines 54-64, in support of his argument that Kishishita teaches an anonymous account in which the player pays in cash and receives a bar code identifying the account. In Kishishita, the player goes to a game data processing unit generally provided at a reception desk. The game center accepts money and “writes as data ID specific to the person data which indicates a code number A and the number B of games which can be played with the amount of money paid. . .” Kishishita, column 3, lines 58-61.

Thus, the player goes to the reception desk and receives identification specific to that player. The identification includes a code number for tracking the player. This is not an anonymous account because the casino knows who the player is and can track his activity.

For obviousness to exist, “either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985). Cited by MPEP 2142. The combination of references does not expressly or impliedly suggest the claimed invention.

It was apparently not obvious to developers of the Jorasch system to include Kishishita’s player accounts because they did not do so. Jorasch was filed nine years after Kishishita issued. Were the combination so obvious and desirable, Jorasch would have used Kishishita’s accounts. Claims 2-8 are likewise allowable because they depend from an allowable claim.

Claim 2, which depends on claim 1, further describes creating an anonymous player account accessible by the host computer. Because the cited references do not disclose anonymous player accounts, they necessarily do not disclose the manner in which those accounts are created. Claim 3 depends from claim 2 and includes the features of claims 1 and 2. As such, the claim is patentable over the prior art.

The Examiner, in rejecting dependent claims 4-6, attempts to isolate one feature of the claims and show its presence in the prior art. The relevant inquiry is not whether Appellant’s invention and the prior art share one common feature, but whether the invention as a whole is patentable over the prior art. In combination with the claims upon which they depend, claims 4-6 are patentable.

With respect to claim 7, the Examiner states that Jorasch teaches local memory associated with the gaming device. *See* Office Action, page 6. It does not. The local memory (304) the Examiner refers to is located in a data storage device remote from the gaming machines. *See* Jorasch Figures 2 and 3. Appellant claims local memory associated with the gaming device. Local memory is supported in Figure 2 (50) and the supporting text of Appellant's specification.

As to claim 8, because the applied art fails to disclose local memory, it necessarily fails to disclose transferring data from the player account in the local memory to the credit meter.

With respect to claim 9, the Examiner states that Jorasch and Kishishita teach the invention substantially as claimed. *See* Office Action, page 6. However, while stating that both references teach the importance of accurate accounting, the Examiner admits that the applied references do not teach the details of accounting for the balance transferred. The Examiner has cited Kishishita, column 4, lines 55-62, as supporting this position.

The audit trail in Kishishita keeps track of the game media (coins, balls, etc.) put in the games, the number of game media expelled at wins, and the ratio between the values. Kishishita, column 4, lines 55-62. In essence, Kishishita is tracking the ratio of games to wins. There is no suggestion that this tracking is related to a player or a player balance. Rather the tracking relates to a particular machine and whether the machine has any game media left.

Jorasch likewise fails to disclose Appellant's claim 9. The Examiner has not directed Appellant to any portion of Jorasch to support his assertion that together Jorasch and Kishishita teach the invention as claimed. Indeed Jorasch does not discuss how the system involved keeps the several balances or accounts separate or ensures that accurate transfers between balances are made. Moreover, because Jorasch is an invention directed to

controlling a gaming device with a plurality of balances, even if it were enabling on audit tracking, which it is clearly not, Jorasch would operate much differently than Appellant's claim 9.

Jorasch would have to reconcile pre and post-transfer meter readings among a plurality of balances and would have to ensure that the correct balance was adjusted by the correct transfer amount. As such, Jorasch would not be able to perform this function as does Appellant. Although careful accounting may be known in the art, Appellant's method of performing careful accounting is not.

As with claim 9, the Examiner in claim 10 acknowledges that Jorasch and Kishishita do not go into the details of the accounting procedures. The Examiner states “[u]nless there is a problem, the calculated difference between the initial meter reading and the post-transfer reading is equal to the amount transferred.” Office Action, page 6. In making this statement the Examiner is highlighting one of the advantages of the claim and the problem in the prior art it addresses—that occasionally there are problems and those problems work to the detriment of the casino or gaming facility.

Rather than being an obvious accounting practice, the feature is an advantage over the prior art. The obvious accounting practice would be to deduct \$10 from the player's balance if the player requested a \$10 transfer or placed a \$10 bet. In claim 9 the device receives a request to transfer credit, reads the credit meter on the gaming device before transferring the credit, credits the meter with the requested credit transfer, reads the credit meter on the device after crediting the meter, calculates the difference in the meter readings, compares the calculated difference with the amount credited and permits gaming device play. Only after these operations have been completed is the calculated difference deducted from the account balance.

The Examiner, in rejecting dependent claim 12, again attempts to isolate one feature of the claim and show its presence in the prior art. The relevant inquiry is not whether Appellant's invention and the prior art share one common feature, but whether the invention as a whole is patentable over the prior art.

With respect to the combination of Jorasch and Kishishita, Appellant submits that neither of these references teaches separately the claimed invention, nor do they teach the claimed invention in combination. Combining these references would produce an audit tracking system that tracked the ratio of plays to wins in a multi-balance setting, without disclosing how that is actually done. This is not Appellant's invention. Appellant's invention has significant features that are not disclosed by the combination of references.

Issue D: Claims 11 & 13-15 are patentable over Jorasch and Kishishita and in view of LeStrange because none of these references alone or in combination yields Appellant's invention.

Claims 11& 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorasch and Kishishita in view of LeStrange.

With respect to the combination of Jorasch and Kishishita in view of LeStrange in claim 11, the Examiner says that although Jorasch fails to teach maintaining records of transfers and calculated differences in a separate location from the player account, LeStrange stresses the importance of maintaining separate audit trails. *See* Office Action, pages 7-8. In support, the Examiner cites LeStrange at column 2, lines 39-61. That section of LeStrange discusses the requirement that all gaming locations account separately for the different forms of monetary value that can be accepted. *Id.* at lines 39-43. The section fails to teach maintaining records of transfers and calculated differences in a separate location from the player account as the Examiner suggests. The Examiner has focused on the term *audit trail* without ensuring that the applied reference actually discloses Appellant's invention.

According to the Examiner, Jorasch likewise fails to disclose transferring a predetermined amount in claim 13. *See* Office Action, page 8. Again, the Examiner contends that LeStrange provides the missing disclosure. In support the Examiner cites LeStrange, column 8, lines 9-13. Specifically, LeStrange discloses “tickets or cards [that] can be issued by casinos for promotion events or as a means for limiting the amount of money that a player can gamble in states where the maximum amount is specified by law.” *Id.* at lines 10-13. Thus, LeStrange discloses limiting the amount a player can gamble, rather than transferring a predetermined amount as the Examiner suggests.

The Examiner also suggests that with respect to claim 14 that Jorasch discloses a transfer that is a function of the balance of the player account. Assuming arguendo that Jorasch disclosed such a transfer, Jorasch does not disclose the transfer in association with a predetermined amount.

In rejecting claim 15, the Examiner says Jorasch discloses classifying players based on their balances. *See* Office Action, page 8. In the cited portion, Jorasch discloses establishing a threshold to “discriminate between players that provide only enough payment for one play, or sufficient payment for more than one play.” Jorasch, column 6, lines 9-12. Rather than discriminating between players, Jorasch discloses discriminating between different levels of payment. Appellant however claims a method “wherein the amount credited is a function of a classification of the player.” This is the converse of Jorasch.

The combination of these references would produce an audit trail stored only on the host computer for monitoring the separate monetary values of different forms of payment to comply with state laws on maximum gambling amounts. This is not Appellant’s invention.

Issue E: Claim 16 is patentable over Jorasch, Kishishita and LeStrange as applied to Walker because none of these references alone or in combination yields Appellant’s invention.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jorasch, Kishishita and LeStrange in view of Walker, et. al. (U.S. Patent No. 6,227,972) (“Walker”). The number of references alone required to make the combination is suspect.

The Examiner acknowledges that Jorasch, Kishishita, and LeStrange fail to teach measuring the time between player account transactions and locking the account when the measured time exceeds at least one established criterion. *See Office Action*, page 9. According to the Examiner, Walker teaches the use of expiring account balances to encourage players to revisit the casino in a particular timeframe. Walker however makes clear that following the expiration period, remaining balances are automatically expired and do not roll over into any subsequent expiration periods. Walker, Abstract. There is no suggestion that Appellant’s account cannot be unlocked or is otherwise lost or decremented.

Issue F: Claims 17-30, 32, 55 & 57-61 are patentable over Jorasch in view of LeStrange because neither of these references alone or in combination yields Appellant’s invention.

Claims 17-30, 32, 55, & 57-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorasch in view of LeStrange.

With respect to claim 17, the Examiner says that Jorasch does not disclose transferring a predetermined amount but that LeStrange does. *See Office Action*, pages 9-10. According to the Examiner, the motivation for doing so is to comply with state gambling laws. In support the Examiner again cites to LeStrange, column 8, lines 9-13. This particular selection describes the types of credit that can be played, such as promotional tickets or debit cards with specified dollar amounts. It specifies that these types of payment can be used by casinos to limit the amount of money a player can gamble in states where a maximum amount is specified by law. It falls short of disclosing “transferring a predetermined credit from the account to the gaming device responsive to a transfer command initiated by the player at said one gaming device.”

There is no suggestion that Appellant's *predetermined credit* is a maximum credit or is limited by law. In fact, Appellant's claim suggests precisely the opposite. Rather than being a limitation on what the player can transfer or play, the *predetermined credit* is "responsive to a transfer command initiated by the player at said one gaming device."

Moreover, as the Examiner notes, neither Jorasch nor LeStrange "go into details" about the program needed to implement their disclosures. *See* Office Action, pages 9-10. The Examiner hypothesizes that such details would necessarily involve checking flags associated with the account for minimum and maximum transfers. Yet, this argument is inconsistent with the Examiner's asserted motivation of transferring a specific amount in order to comply with state laws. If the motivation is to comply with state laws specifying maximum amounts, what would be the purpose of checking flags for minimum and maximum transfers—the only relevant flag would be whether the legal amount had been reached.

The Examiner's hindsight combination of the references is apparent in the statement: It would have been obvious to one of ordinary skill in the art at the time of the invention to have checked flags associated with the account for minimum and maximum transfer limits **in order to implement the disclosure of Jorasch and LeStrange into a workable system that complies with state laws.**

Office Action, page 10 [emphasis added]. It is only the Examiner who feels compelled to implement Jorasch and LeStrange into a workable system and to hypothesize how that system would work.

Claim 18 is directed to permitting gaming device play and cashing out from the gaming device responsive to a second command initiated by said player at said one gaming device. Claim 18 is patentable as a claim depending from allowable subject matter.

The Examiner, with respect to claim 19, states that Jorasch teaches transferring all of the credit from the gaming device to the account responsive to a transfer command initiated

by the player at said one gaming device. *See* Office Action, page 11. Yet, the relevant section of Jorasch indicates that “an amount” rather than “all of the credit,” as claimed by Appellant in claim 19, is dispensed. Moreover, Jorasch further discloses that to be credited to an account, balances are “selected.” *See* Jorasch, column 10, lines 5-10. Claims 20-23 are allowable as claims depending from an allowable claim.

In rejecting claim 24, the Examiner says that Jorasch discloses local memory associated with the gaming device and that the local memory receives player account information transmitted over a network from the central computer. *See* Office Action, page 11. Instead Jorasch discloses a data storage device, containing the player database, connected via a processor and communication port to one or more gaming devices. Jorasch, figures 2-3. In no way can this be construed as “transmitting data representing the player account over the network to a local memory associated with said gaming device,” as Appellant claims.

Because Jorasch does not disclose “transmitting data representing the player account over the network to a local memory associated with said gaming device,” it necessarily cannot disclose transferring data from the player account in the local memory to the credit meter, as claimed by Appellant in claim 25.

In rejecting claim 26, the Examiner admits that Jorasch and LeStrange fail to teach the details of accounting for balances transferred. Nevertheless, rather than identifying any source to support the obviousness rejection, the Examiner refers to the claim as “merely checking the accuracy of the final credit meter reading.” Office Action, page 12. The Examiner also states that if the initial credit meter reading were \$0 and \$10 was transferred, a final credit meter reading of anything other than \$10 would indicate a problem. This simplistic analysis overlooks much.

The Examiner’s analogy fails to factor in the amount of the requested transfer, whether the actual transfer and the requested transfer were identical, and whether the pre and

post transfer meter readings corresponded to the amount actually transferred, rather than the amount of the transfer request. Claim 26 claims calculating the difference in the meter readings and comparing the calculated difference with the amount transferred. Claim 26 does not claim comparing the calculated difference with the requested transfer amount as the Examiner's analogy implies.

In claim 27 the Examiner again referred to standard accounting practice without providing any support for the rejection. According to the Examiner, if the calculated difference between the initial meter reading and the post-transfer reading were equal to the amount transferred, that amount would be deducted from the player's account balance. Office Action, page 12. Again, the Examiner fails to see the subtlety of the claim.

In claim 27 the method includes deducting the calculated difference from the account balance. It is not the requested amount that is deducted. It is not the pre and post meter readings that equal the amount transferred that are deducted, as the Examiner argues. *See* Office Action, page 12. Instead it is the calculated difference. Appellant submits that the standard accounting practice would be to deduct \$10 from the account balance if the player requested a \$10 transfer or made a \$10 wager. It is not standard accounting to receive a request, take a first meter reading, transfer credit, take a second meter reading, calculate the difference between the two meter readings, compare the calculated difference with the amount requested and deduct the calculated difference from the account balance.

Again with respect to claim 28 the Examiner acknowledges that Jorasch does not teach maintaining records of transfers and calculated differences in a separate location from the player account. *See* Office Action, pages 12-13. Again the Examiner refers to this with the generic term *audit trail*. Again the Examiner cites LeStrange as stressing the importance of maintaining a separate *audit trail*. Yet, LeStrange fails altogether to disclose maintaining records of both transfers and calculated differences. LeStrange fails to disclose keeping those

records in locations separate from the player account. LeStrange instead discloses providing separate accounting for different forms of machine payouts. LeStrange, column 2, lines 51-53.

In rejecting claim 29, the Examiner states that Jorasch discloses a transfer that is a function of the balance of the player account. *See* Office Action, page 13. However, Jorasch requires that a balance be selected. Appellant, in claim 29, claims a predetermined credit that is a function of the balance in the player account. Claims 30, 32, 55, and 59-61 depend from allowable claims and are therefore allowable.

When applying prior art references to make an obviousness rejection, an examiner cannot pick and choose the attributes of each reference he would like to combine and ignore the others. “A prior art reference must be considered in its entirety . . . including portions that would lead away from the claimed invention.” MPEP 2141.02 citing *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Considering these references in their entirety, Appellant’s invention is not obvious.

With respect to the combination of Jorasch and LeStrange, Appellant submits that neither of these references teaches separately the claimed invention, nor do they teach the claimed invention in combination. Combining these references would produce a system that used promotional tickets or debit cards for one or more balances stored in a remote database to limit a player’s ability to gamble where maximum amounts are specified by law and an audit tracking system that updated meter values based on the player’s transfer request. This is not Appellant’s invention. The Examiner’s suggestion is not convincing and the references do not expressly or impliedly suggest the claimed invention.

Issue G: Claim 31 is patentable over Jorasch and LeStrange as applied to Walker because none of these references alone or in combination yields Appellant’s invention.

Claim 31 is rejected under 35 U.S.C 103(a) as being unpatentable over Jorasch and LeStrange in view of Walker. The Examiner acknowledges that Jorasch and LeStrange fail to teach measuring the time between player account transactions and locking the account when the measured time exceeds at least one established criterion. *See* Office Action, pages 14-15. According to the Examiner, Walker teaches the use of expiring account balances to encourage players to revisit the casino in a particular timeframe. Walker, however, makes clear that following the expiration period, remaining balances are automatically expired and do not roll over into any subsequent expiration periods. Walker, Abstract. There is no suggestion that Appellant's account cannot be unlocked or that the account balance is forever lost.

Issue H: Claims 34, 35 & 37 are patentable over LeStrange because LeStrange does not yield Appellant's invention.

Claims 34, 35, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeStrange.

The Examiner, in rejecting claim 34 states that although LeStrange does not discuss the subject matter of the claim, that the amount transferred to the gaming machine would be deducted from the player's account balance and the new balance would be stored on the system. *See* Office Action, page 15. The Examiner says that it would have been obvious to one of ordinary skill in the art to have deducted the amount transferred to the gaming device from the player's account balance to comply with standard accounting practices. The Examiner does not say that reading the credit meter a first time, storing the first credit meter, transferring credit between the account and the gaming device, reading the credit meter a second time and storing the second meter reading is a standard accounting practice, and indeed it is not. Appellant, in claim 34, claims adjusting the account by the amount of credit

transferred between the account and the gaming device and storing the account balance. The amount of credit transferred is based upon two readings of the credit meter.

The Examiner rejected claim 35 under the rationale that LeStrange teaches a separate database for stored meter readings. *See Office Action*, page 15. The cited selection fails to disclose this feature. As previously discussed with respect to claim 45, in LeStrange accounting data (including meter data) and customer data (player data) are stored in the same place, the host computer, in the same database. LeStrange, column 7, lines 4-6. As such, LeStrange fails to teach a separate database for stored meter readings.

In rejecting claim 37 as unpatentable over LeStrange, the Examiner admits that LeStrange does not specifically address the subject matter of the claim. *See Office Action*, page 15. Rather, the examiner states that it is a standard accounting practice to adjust the account by the amount of credit transferred between the account and the gaming device and storing the account balance after each transfer. Again, the Examiner fails to consider the differences between the amount requested and the amount actually transferred.

Issue I: Claims 38, 39, 41, and 42 are patentable over LeStrange in view of Jorasch because neither of these references alone or in combination yields Appellant's invention.

Claims 38, 39, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over LeStrange in view of Jorasch. Claims 38-39 depend from an allowable claim and are therefore allowable.

With respect to claims 41 and 42—Jorasch does not disclose local memory associated with a gaming device. The local memory (304) the Examiner refers to is located in a data storage device remote from the gaming machines. Appellant claims local memory associated with the gaming device. Local memory is supported in Figure 2 (50) and as such claims 41 and 42 are patentable over the applied art.

Issue J: Claim 50 is patentable over LeStrange in view of Walker because neither of these references alone or in combination yields Appellant's invention.

Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over LeStrange in view of Walker.

The Examiner acknowledges that LeStrange fails to teach measuring the time between player account transactions and locking the account when the measured time exceeds at least one established criterion. *See* Office Action, page 17. According to the Examiner, Walker teaches the use of expiring account balances to encourage players to revisit the casino in a particular timeframe. Walker however makes clear that following the expiration period, remaining balances are automatically expired and do not roll over into any subsequent expiration periods. Walker, Abstract. There is no suggestion that Appellant's account cannot be unlocked or that the account is lost or diminished. Put differently, a locked account is different from expired credits.

Issue K: Claim 51 is patentable over Jorasch and Kishishita and further in view of Walker because none of these references alone or in combination yields Appellant's invention.

Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jorasch and Kishishita in view of Walker.

The Examiner acknowledges that Jorasch and Kishishita fail to teach measuring the time between player account transactions and locking the account when the measured time exceeds at least one established criterion. *See* Office Action, page 17. According to the Examiner, Walker teaches the use of expiring account balances to encourage players to revisit the casino in a particular timeframe. Walker however makes clear that following the expiration period, remaining balances are automatically expired and do not roll over into any subsequent expiration periods. Walker, Abstract. There is no suggestion that Appellant's

account cannot be unlocked or that the account is lost or diminished. As previously argued, a locked account is different from expired credits.

Issue L: Claims 52-54 are patentable over Jorasch and LeStrange and further in view of Kishishita because none of these references alone or in combination yields Appellant's invention.

Claims 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorasch and LeStrange in view of Kishishita.

In rejecting claim 52, the Examiner cites Kishishita, column 3, lines 54-64, as supporting the argument that Kishishita discloses an anonymous account in which the player pays in cash and receives a bar code identifying the account. *See* Office Action, page 18. Kishishita does not disclose creating an anonymous player account.

In Kishishita, the player goes to a game data processing unit which is generally provided at a reception desk. The game center accepts money and “writes as data ID specific to the person data which indicates a code number A and the number B of games which can be played with the amount of money paid. . .” Kishishita, column 3, lines 58-61. By going to the reception desk and receiving identification specific to the player, including a code number for tracking the player, Kishishita’s account is not anonymous. The casino knows who the player is and can track his activity. Rather Kishishita is a less sophisticated player account that uses paid up credits.

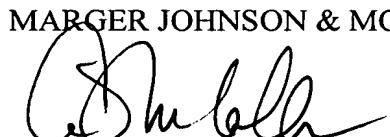
As to claims 53 and 54, the Examiner is incorrect when stating that Kishishita creates player accounts at an automated card dispenser. *See* Office Action, page 18. The Examiner identifies Figure 2 (10) as supporting this argument. The specification supporting this figure says (10) is a game data processing unit generally provided at the reception desk. There is no suggestion that the process is automated and that people are not involved. The specification discloses the opposite. The game center (the reception desk) receives money and “writes” as data identification specific to the person. Kishishita, column 3, lines 58-60.

CONCLUSION

In rejecting the pending claims, the Examiner has failed to establish that the prior art anticipates the claims or renders them obvious. With regard to anticipation, the Examiner has overlooked essential features of Appellant's invention that are not anticipated by the cited reference, including calculating the difference in two meter readings associated with the same request for credit transfer, comparing the calculated difference with the amount transferred, and storing the amount transferred and the calculated difference at a location on the network remote from the player account.

The Examiner, in making combinations for obviousness, in many cases admits the shortcomings of his combinations and to supplement them relies on his own hindsight understanding of what are common accounting practices in the casino setting without providing any support for that understanding. As to each combination of references and each claim, the Examiner fails to establish that the applied art renders the claims obvious and in doing so overlooks significant advantages of Appellant's invention.

For the foregoing reasons, Appellant requests that the Board reverse the Examiner's rejections to Appellant's claims.

Respectfully submitted,
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APPENDIX
37 CFR §1.192(c) (9)

The text of the claims on appeal is:

Claims 1-35 and 37-61, as follows:

1. A method for operating gaming devices interconnected by a network to a host computer comprising:

creating an anonymous player account accessible by the host computer;

providing access to the account responsive to a first command initiated by a player at one of the gaming devices;

transferring credit from the account to the gaming device;

permitting gaming device play; and

cashing out from the gaming device responsive to a second command initiated by said player at said one gaming device.

2. The method of claim 1 wherein creating an anonymous player account accessible by the host computer comprises:

providing a tracking card to the player;

storing an anonymous player record on the host computer;

receiving an initial cash deposit from the player; and

crediting the deposit to the account.

3. The method of claim 2 wherein said gaming devices are in a casino and wherein creating a player account accessible by the host computer is performed at an automated card dispenser.

4. The method of claim 1 wherein said first command comprises insertion of a player tracking card into a card reader associated with said one gaming device.

5. The method of claim 4 wherein said second command comprises actuating a cash out actuator at said one gaming device.

6. The method of claim 1 wherein said second command comprises actuating a cash-out actuator at said one gaming device.

7. The method of claim 1 wherein providing access to the account comprises transmitting data representing the player account over the network to a local memory associated with said one gaming device.

8. The method of claim 7 wherein transferring from the account to the gaming device comprises transferring data from the player account in the local memory to the credit meter.

9. A method for secure cashless transfer of credit between a player account communicating with a networked gaming device comprising:

- receiving a request to transfer credit;
- reading the credit meter on said one gaming device before transferring credit;
- crediting the meter with the requested credit transfer;
- reading the credit meter on said one gaming device after crediting the meter;
- calculating the difference in the meter readings;
- comparing the calculated difference with the amount credited; and
- permitting gaming device play.

10. The method of claim 9 wherein said method further includes deducting the calculated difference from the account balance.

11. The method of claim 10 wherein said method further comprises storing the amount credited and the calculated difference at a location on the network remote from the player account.

12. The method of claim 11 wherein a request to transfer credit from the account to the gaming device occurs responsive to a player-initiated command at said one gaming device.

13. The method of claim 12 wherein the amount credited is predetermined.

14. The method of claim 13 wherein the amount credited is a function of the balance in the player account.

15. The method of claim 13 wherein the amount credited is a function of a classification of the player.

16. The method of claim 13 wherein said method further comprises:
measuring the time between each player account transaction; and
locking the account when the measured time exceeds at least one established criterion.

17. A method for operating gaming devices interconnected by a network to a host computer comprising:

creating a player account accessible by the host computer;
providing access to the account responsive to a first command initiated by a player at one of the gaming devices; and
transferring a predetermined credit from the account to the gaming device responsive to a transfer command initiated by the player at said one gaming device.

18. The method of claim 17 wherein said method further includes;
permitting gaming device play; and
cashing out from the gaming device responsive to a second command initiated by said player at said one gaming device.

19. The method of claim 17 wherein said method further includes;
permitting gaming device play; and
transferring all of the credit from the gaming device to the account responsive to a transfer command initiated by the player at said one gaming device.

20. The method of claim 17 wherein creating a player account accessible by the host computer comprises:

issuing a tracking card to the player;
storing a player record on the host computer;
receiving an initial cash deposit from the player; and
crediting the deposit to the account.

21. The method of claim 20 wherein said gaming devices are in a casino and wherein creating a player account accessible by the host computer is performed at a terminal connected to the network by an agent of the casino.

22. The method of claim 17 wherein said first command comprises insertion of a player tracking card into a card reader associated with said one gaming device.

23. The method of claim 18 wherein said second command comprises actuating a cash-out actuator at said one gaming device.

24. The method of claim 17 wherein providing access to the account comprises transmitting data representing the player account over the network to a local memory associated with said one gaming device.

25. The method of claim 24 wherein transferring a predetermined credit from the account to the gaming device comprises transferring data from the player account in the local memory to the credit meter.

26. The method of claim 17 wherein said method further comprises:
reading the a credit meter on said one gaming device before transferring said predetermined credit;
reading the credit meter on said one gaming device after transferring said predetermined credit;
calculating the a difference in the meter readings; and
comparing the calculated difference with the amount transferred.

27. The method of claim 26 wherein said method further includes deducting the calculated difference from the account balance.

28. The method of claim 27 wherein said method further comprises storing the amount transferred and the calculated difference at a location on the network remote from the player account.

29. The method of claim 17 wherein the amount of said predetermined credit is a function of the balance in the player account.

30. The method of claim 17 wherein the amount of said predetermined credit transferred is a function of a classification of the player.

31. The method of claim 17 wherein said method further comprises:
measuring the time between each player account transaction; and
locking the account when the measured time exceeds at least one established criterion.

32. The method of claim 17 wherein the transfer command initiated by the player at said one gaming device comprises actuating at least one of a plurality of actuators, each of which is associated with a predetermined credit amount.

33. A method for operating gaming devices interconnected by a network to a host computer comprising:

creating a player account accessible by the host computer;
providing access to the account responsive to a command initiated by a player at one of the gaming devices;
reading the credit meter a first time;
storing the first meter reading;
transferring credit between the account and the gaming device;
reading the credit meter a second time; and
storing the second meter reading.

34. The method of claim 33 wherein said method further includes:
adjusting the account by the amount of credit transferred between the account and the gaming device; and
storing the account balance.

35. The method of claim 34 wherein the stored meter readings are at a different location from the stored account balance.

37. The method of claim 36 wherein said method further includes:

adjusting the account by the amount of credit transferred between the account and the gaming device; and
storing the account balance after each transfer.

38. The method of claim 33 wherein creating a player account accessible by the host computer comprises:

issuing a tracking card to the player;
storing a player record on the host computer;
receiving an initial cash deposit from the player; and
crediting the deposit to the account.

39. The method of claim 38 wherein said gaming devices are in a casino and wherein creating a player account accessible by the host computer is performed at a terminal connected to the network by an agent of the casino.

40. The method of claim 33 wherein said command comprises insertion of a player tracking card into a card reader associated with said one gaming device.

41. The method of claim 33 wherein providing access to the account comprises transmitting data representing the player account over the network to a local memory associated with said one gaming device.

42. The method of claim 33 wherein transferring the credit between the account and the gaming device comprises transferring data between the account in the local memory and the gaming device.

43. The method of claim 33 wherein said method further comprises:
reading the credit meter on said one gaming device before transferring credit;
reading the credit meter on said one gaming device after transferring credit;
calculating the difference in the meter readings; and
comparing the calculated difference with the amount transferred.

44. The method of claim 43 wherein method further includes deducting the calculated difference from the account balance.

45. The method of claim 44 wherein said method further comprises storing the amount transferred and the calculated difference at a location on the network remote from the player account.

46. The method of claim 33 wherein transferring credit between the account and the gaming device occurs responsive to a player-initiated command at said one gaming device.

47. The method of claim 46 wherein the amount transferred is predetermined.

48. The method of claim 47 wherein the amount transferred is a function of the balance in the player account.

49. The method of claim 47 wherein the amount transferred is a function of a classification of the player.

50. The method of claim 33 wherein said method further comprises: measuring the time between each player account transaction; and locking the account when the measured time exceeds at least one established criterion.

51. The method of claim 9 wherein said method further comprises; measuring the time between each player account transaction; and locking the account when the measured time exceeds at least one established criterion.

52. The method of claim 17 wherein the player account is an anonymous account.

53. The method of claim 20 wherein said gaming devices are in a casino and wherein creating a player account accessible by the host computer is performed at an automated card dispenser.

54. The method of claim 38 wherein said gaming devices are in a casino and wherein creating a player account accessible by the host computer is performed at an automated card dispenser.

55. The method of claim 17 wherein the predetermined credit is calculated by an algorithm.

56. The method of claim 55 wherein the algorithm is stored in local memory.

57. The method of claim 56 wherein the algorithm checks flags associated with the account for minimum and maximum transfer limits.

58. The method of claim 57 wherein the minimum and maximum transfer limits are imposed when the account is opened.

59. The method of claim 17 wherein the amount of said predetermined credit is not a function of the balance in the player account.

60. The method of claim 55 wherein the algorithm examines the account balance prior to transferring the predetermined credit to prevent transfers in excess of the account balance.

61. The method of claim 17 wherein the amount of said predetermined credit is not selected by the player.